

APPEAL PROCEDURES FOR SUMMER FOOD SERVICE PROGRAM

1. Actions Which Can Be Appealed

Section 225.13 of the regulations governing the Summer Food Service Program (SFSP), describes the procedures for a sponsor to use to appeal a number of adverse actions which may be taken against it. These actions may be taken as a result of an SFSP review or audit done by a federal agency, or as part of an administrative activity taken by the Michigan Department of Education (MDE) as the state administering agency. The following are appealable adverse actions:

- a. Denial of a sponsor's application for participation.
- b. Denial of a sponsor's application for a site.
- c. Termination of a sponsor.
- d. Termination of a site.
- e. Denial of a sponsor's request for an advance payment.
- f. Denial of a sponsor's timely claim submittal for reimbursement.
- g. Claims against a sponsor for remittance of a payment.

The MDE will notify the sponsor in writing of the grounds upon which the MDE based the action. The notice of action which shall be sent by certified mail, return receipt requested, shall also include a statement indicating that the sponsor has the right to appeal the action of the MDE. The MDE action shall remain in effect during the appeal process. However, participating sponsors and sites may continue to operate the program during an appeal of termination, and if the appeal results in overturning MDE's decision, reimbursement shall be paid for meals served during the appeal process. However, such continued operation under the program shall not be allowed if MDE's action is based on imminent dangers to the health or welfare of children. If the sponsor or site has been terminated for this reason, MDE shall so specify in its notice of action.

2. Manner of Filing a Request for Administrative Review

The appellant aggrieved by MDE's adverse action, may appeal such action by mailing a formal, certified return receipt request for administrative review in a timely manner:

Michigan Department of Education
Office of School Support Services
School Nutrition Programs
P.O. Box 30008
Lansing, MI 48909

In order to be timely, the request must be postmarked by the U.S. Postal Service or delivered to the Director of Office of Administrative Law, within 7 calendar days of receipt of the MDE notice of adverse action. If the 7th day falls on a Saturday, Sunday, or state legal holiday, a request will be timely if it is postmarked or delivered the next day which is not a Saturday, Sunday, or state legal holiday.

3. Important Information About Contents and Timeliness

The request must be submitted within one week (7 days) of the date that you receive the certified letter notifying you of the adverse action you wish to appeal. The request for appeal must include:

- The name, address, title and signature of the person requesting the appeal.
- A specific request for a face to face hearing if one is desired, (otherwise an administrative review of the record will be conducted).

The request should also include:

- Telephone and fax numbers, if available.
- A copy of the certified letter from the State Agency (SA) in which the action being appealed is described.
- The date the letter was received.
- A statement of the relief being requested.

Any additional information you wish to be considered in your review:

- Must be submitted within 7 days of submitting the appeal.
- Must clearly identify the SA action being appealed.
- Must include a photocopy of the notice of action issued by the SA.

If your request is determined to be timely (submitted within one week (7 days) from the receipt of the certified letter and 7 additional days for submitting written documentation and evidence), you will receive acknowledgment of that fact from the Administrative Review Officer. If your request is determined to be not timely filed, you will be notified that no review will be conducted and that the original determination has become final. Timeliness deadlines will be strictly observed.

You also have the right to contact the Administrative Review Officer assigned to the case for any questions you may have. Please feel free to ask questions and seek clarification of issues as you may require.

An appellant may respond to the charges contained in the MDE notice of adverse action by filing supporting documentation with its request for administrative review, or indicate in its request that such documentation will be filed with MDE within 7 calendar days after submitting its request for administrative review. An appellant shall be afforded the opportunity to review any information in the MDE files upon which the adverse action was based.

4. Requesting a Hearing

An appellant may request a hearing before an Administrative Review Officer in addition to, or in lieu of, a review of documentation submitted by the appellant and the MDE, only if the appellant specifically asks for such a hearing in its written request for administrative review. An appellant may retain legal counsel or be represented by another person at the hearing.

Failure of the appellant's representative to appear at a scheduled hearing shall constitute the appellant's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing. A representative of the MDE shall be allowed to attend the hearing to respond to the appellant's testimony and written information and to answer questions from the review official.

If the appellant requests a hearing, the appellant and MDE will be provided with at least 5 days advance written notice, sent by certified mail, return receipt requested of the time and place of the hearing.

The hearing shall be held within 14 working days from the date of receipt by the Director of Office of Administrative Law, of the request for administrative review, but not before the appellant's supporting documentation is received by MDE.

5. The Administrative Review Officer's Determination

The Administrative Review Officer shall make a decision to uphold, reverse, or modify the MDE adverse action based on a full review of the documentation and information provided by the appellant and the MDE, and on program regulations. The Administrative Review Officer's written determination shall be sent to the appellant and to the MDE by certified mail, return receipt requested, within 5 working days after the close of the hearing, or within 5 working days after receipt of the appellant's supporting documentation and the MDE files, if no hearing is conducted.

The Administrative Review Officer's determination is the final administrative determination to be afforded the appellant, and is effective upon receipt by the appellant.

The U.S. Department of Agriculture prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish).

USDA is an equal opportunity provider and employer.